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SUMMARY RECORD OF THE 36th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 4 April 2001, at 3 p.m.

Chairperson: Mr. DESPOUY (Argentina)

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The meeting was called to order at 3.10 p.m.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF THE CONGO

1. Mr. ADADA (Congo), having welcomed the news that the High Commissioner for Human Rights had reconsidered her decision not to seek a second term of office, said that the Commission's first session of the third millennium offered the opportunity to reflect on the human rights record of the past century and consider what remained to be done. One of the Commission's first tasks had been to draw up an International Bill of Human Rights. That had been achieved with the Universal Declaration of Human Rights and the two International Covenants on Human Rights which had subsequently been reinforced by other international conventions. The committees set up under those instruments were working well. Governments had understood the importance of submitting reports to them and were making ever-greater efforts to meet their obligations.

2. Much had thus been achieved but there was still a long way to go. His Government welcomed the fact that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was to be held in South Africa. His own country had contributed to the African Regional Conference held in Dakar from 22 to 24 January 2001. It was to be hoped that the Conference would find adequate ways of eradicating the scourge of racism in the future, while retaining a historical perspective and remembering, for instance, that Africa had suffered greatly from acts of racism in the times of slavery and colonialism.

3. The other major challenge facing the Commission was the speedy realization of the right to development, a universal and inalienable right without which there could be no real enjoyment of all the other human rights. Extreme poverty constituted a complete negation of human dignity. For that reason, his Government had made it a priority to boost the economy, establish a State subject to the rule of law and revive the democratic process. Young people had an important role to play in the development process and particular attention was thus being given to youth training, employment and integration. No country could achieve true development if it neglected its young people.

4. The establishment of the rule of law was being achieved by the introduction of an effective and impartial system of justice. A prerequisite for a State subject to the rule of law was a democratic regime; and there could be no democracy without an independent judiciary capable of limiting the power of the executive.

5. Progress along those lines had unfortunately been driven off course by the various civil wars that had occurred. To put an end to the violence, the Government and the armed factions had, through the good offices of the International Mediator, the President of Gabon, concluded a ceasefire agreement and an agreement on cessation of hostilities in November and December 1999. Under the agreements, some 12,000 firearms, of all calibres, had been collected and ex-combatants had been reintegrated into society, with the assistance of the international community, to which he expressed his gratitude.

6. The return of peace had made it possible to embark upon a comprehensive national dialogue to revive the democratic process. The National Dialogue, designed to lay the foundations for national reconciliation and a lasting solution to the Congolese crisis, had opened in Brazzaville on 1 March 2001 in the presence of the President, the International Mediator and several heads of State and international observers. The Dialogue, in which all political parties and movements were represented, together with trade unions, civil associations and individuals, fell into two parts, an initial stage of recording proposed amendments to the draft Constitution and the draft Convention for the Peace and Reconstruction of the Congo and a subsequent stage - from 11 to 14 April 2001 - which would seek to achieve a national consensus on political and institutional values, peace and national reconstruction. The Dialogue would culminate on 14 April in the signature of the Convention for the Peace and Reconstruction of the Congo.

7. The National Dialogue was an important event which should enable the Congo to look to the future with optimism and to resume its place among the nations enjoying a pluralist democracy, with the holding of a constitutional referendum and general elections. He appealed to the international community to continue its support for a process that was vital for the democratic future of the Congo and the well-being of its people.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (continued)
E/CN.4/2001/8, 10, 49-53, 54 and Add.1 and Corr.1, 55 and Add.1, 56, 57, 62 and Add.1 and 2, 123 and 148; E/CN.4/2001/NGO/1, 4, 14, 15, 26, 30, 58, 60, 63, 80, 82, 103-106, 108, 109, 125, 131, 148, 154, 166 and 186; E/CN.4/2000/33; E/CN.4/Sub.2/2000/13)

8. Ms. OUHACHI-VESELY (Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights) said that the concerns expressed by the representative of Costa Rica seemed to be covered in her report which set out the facts regarding the case of the sterilized workers which implicated transnational companies, not the Government. She paid tribute to the work done by the Ombudsman in Costa Rica in helping the victims regain their rights.

9. As for the Cuban representative's comments concerning the need for special rapporteurs to be accorded equitable treatment and for the timely distribution of documents, she had herself experienced difficulties in securing acceptance of a single addendum to her report, which was distributed in one working language only. A comparative study should be made so that documentation could be rationalized on a more equitable basis for all the special rapporteurs.

10. She thanked the African Group for its interest in the subject of her mandate and its positive assessment of her report. She hoped that her observations regarding human rights incidents would convince the Japanese authorities of the relevance of the problem being considered within the Commission.

11. She welcomed the cooperation which she enjoyed with the United Nations Environment Programme (UNEP) and the secretariat of the Basel Convention, particularly with regard to the prospects for a substantial contribution to the Rio +10 Summit. She had taken note of the constructive contributions of Human Rights Advocates, the Natural Heritage Institute and

Earth Justice. Finally, she said that the best criticism that could be made of a Special Rapporteur's work was that it did not obey the criteria and parameters defined in the financial institutions which, in the era of globalization, it was intended should rule the world.

12. Mr. KOTHARI (Special Rapporteur on adequate housing) said that the statements that had linked the right to adequate housing and land rights to the issues of poverty, discrimination and women's rights to land and property had confirmed him in his belief that it was absolutely critical to follow an approach based on the indivisibility of human rights. He had particularly welcomed the statements by the representative of Mexico and the International Alliance of Women regarding the rights of women to property, health and adequate housing.

13. He would give consideration to the question of natural disasters, and to the emphasis that needed to be given to housing programmes at the municipal level, following the statements made by the observers for Honduras and Nicaragua. The statement made by the representative of the United Nations Centre for Human Settlements (Habitat) had highlighted the need for a United Nations system-wide housing rights programme. It was something he was very keen to promote, and it was gratifying that progress was being made in that direction. However, there had been something of a setback in the lead-up to the Istanbul +5 review, and there was a very urgent need for the Commission to state unequivocally that there should be no going back on the Habitat agenda and on work on the right to adequate housing.

14. He welcomed the statements that had been made relating that work to the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights. Progress towards its speedy adoption would greatly facilitate work on the right to adequate housing. Finally, he sought the assistance of the Commission regarding the development of a research agenda on the right to adequate housing, especially so that research could be carried out on the impact of globalization on housing.

15. Mr. FANTU CHERU (Independent expert on structural adjustment policies and foreign debt) said that, while he welcomed the statements by the representative of Zambia and a number of non-governmental organizations (NGOs), he disagreed with the representative of the World Bank whose analysis was based on discussions with national Governments that had been affected by the process of adjustment and the management of the debt crisis. The whole debt issue had to go beyond the heavily indebted poor countries (HIPC) initiative, which was already experiencing a significant funding crisis. Although 33 HIPC countries had received US$ 20 billion of debt relief to date, as well as bilateral debt relief, another US$ 221 billion remained that was clearly unlikely to be paid out.

16. Debt relief in the future should focus on three priority areas. In the first place, there were the countries that were particularly severely affected by the HIV/AIDS pandemic. In some countries of sub-Saharan Africa, up to 40 per cent of primary school teachers would be dead within the next two to three years. The Governments concerned urgently needed debt relief and a significant infusion of resources. Secondly, there were countries in post-conflict situations, such as Sierra Leone, Guinea, Rwanda and Burundi. It was necessary to be able to provide the young people of those countries where there had been a massive culture of violence with an

alternative. Thirdly, countries which had been the victims of natural disasters could not be expected to restart their development processes unless resources were targeted at strategic sectors of their economies so as to raise productivity.

17. With regard to the overall management of the debt crisis, the charade had to come to an end. Nations had been playing games in the face of tremendous poverty and marginalization. The hope had to be that, at the next summit meeting of the Group of 7, a much bolder alternative would be found to the current approach, which was completely inadequate.

18. Special rapporteurs and independent experts could continue to submit their reports, but there was currently no bridge connecting the Commission's work to the activities of the multilateral institutions - the International Monetary Fund (IMF), the World Bank and the World Trade Organization (WTO) - and unless the Commission devised a stronger mechanism with which to engage those powerful institutions, no progress was going to be made on the integration of human rights.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(agenda item 11) (E/CN.4/2001/4, 9 and Add.1 and 2, 10, 11, 14 and Add.1, 58, 59 and Corr.1 and Add.1, 60, 61, 63, 64 and Add.1, 65 and Add.1-3, 66 and Add.1, 67, 68, 69 and Add.1, 116, 137 and Corr.1, 138 and 149; E/CN.4/2001/NGO/2, 16, 23, 31, 47, 49, 50, 52, 64-71, 76, 90-94, 98, 99, 101, 110, 115, 116, 132-135, 137 and Corr.1, 138-145, 150, 159, 167, 168, 181 and 182; A/55/178 and 280 and Add.1 and 2; A/RES/55/89)

19. Mr. SIBAL (Chairman-Rapporteur of the Working Group on Arbitrary Detention) introducing the Working Group's report (E/CN.4/2001/14 and Add.1) said that it had continued to develop its follow-up procedure and had sought to engage in continuous dialogue with the countries it had visited and in respect of which it had recommended changes of domestic legislation governing detention. Acceptance, transparency and cooperation in the context of requests for country visits was the surest way of furthering the cause of human rights by developing mutual respect and understanding between Member States and the United Nations human rights mechanisms.

20. The Working Group was seriously concerned about the increasing misuse of the term "State secrets" to describe certain information, and recommended that Governments take all necessary steps to ensure that no legislation concerning national or State security was extended to cover information relating to the defence and protection of either human rights or the environment. It recommended that all States that had not yet done so should adopt appropriate measures to ensure that conscientious objector status was recognized and also recommended that Governments should specify in domestic law the maximum permissible period of detention pending extradition of an individual to a requesting State.

21. Ms. JAHANGIR (Special Rapporteur on extrajudicial, summary or arbitrary executions), introducing her report (E/CN.4/2001/9 and Add.1 and 2), said that the situation regarding her mandate remained grim and there was little cause for optimism. The worst forms of violations were committed in internal conflicts between government forces and militant groups or civilians. The warning signs were clear: firm steps must be taken to end impunity; it was crucial to search for creative ideas for conflict prevention and to strengthen the capacity for post-conflict peace-building; and violations of the right to life by Governments must never be tolerated or overlooked.

22. Impunity for human rights offenders seriously undermined the rule of law and widened the gap between those close to power structures and those who were vulnerable to human rights abuses. The increasing difficulties in securing justice alienated the people from the State, and might even drive them to take the law into their own hands, resulting in a further erosion of the justice system and a vicious circle of violence and retaliation. If unaddressed, such situations could easily degenerate into anarchy and social disintegration. Too many Governments continued to condone or even justify extrajudicial killings by their security forces but their explanations were steadily losing credibility.

23. More and more people were beginning to oppose the culture of violence. Regrettably, others were joining militant groups which pursued their goals by violent means and often thrived on and exploited the grievances of civilian populations. Governments should recognize that grievances were all too often the direct products of their own actions, or of their failure to listen to and care for those most in need of support and protection. They should also note that people suspected that many militia groups were tolerated, supported or formed by Governments or their intelligence agencies. Thousands of unarmed civilians, including many women and children, had been killed in conflict situations or as a result of excessive use of force by law-enforcement agents.

24. She had repeatedly sent allegations of extrajudicial killings to the Government of Israel, but had so far received no response. She had approached the Government of the Russian Federation with regard to a number of alleged violations of the right to life attributed to government forces in Chechnya, and her request for permission to visit Chechnya was still pending. In February 2001, she had issued a statement expressing her deepening concern over continuing reports of massacres and extrajudicial executions in Afghanistan. Such killings had to be investigated and a way to secure justice found.

25. In recent months her attention had been drawn to reports of extrajudicial killings of children in Honduras, Guatemala and Nicaragua in the context of so-called "social cleansing". She regretted that, in paragraph 67 of the report, she had wrongly mentioned Costa Rica; a correction would be issued.

26. The second addendum to her report contained her observations following a mission to Nepal in February 2000. In it she concluded that Nepal was in the early stages of transition to democracy, and that it was essential to maintain the momentum and safeguard the progress achieved.

27. She had paid a visit to Turkey in February 2001 and would report on it in due course. The Governments of Colombia, Honduras, the Federal Republic of Yugoslavia and Côte d'Ivoire had invited her to visit their countries.

28. Mr. BAHADUR SHRESTHA (Nepal) said that the enormous challenge faced by his country in strengthening its democratic system and advancing its economic development at the same time as protecting the rights and interests of its citizens had been compounded by the violent and murderous activities of the Communist Party of Nepal (Maoist) since February 1996. The problem posed a threat to the very survival of democracy in Nepal. Nearly 1,600 people had lost their lives in incidents involving the Maoists. As recently as 1 and 2 April 2001, 35 policemen had been killed and 28 abducted by Maoists in Rukum and Dolakha Districts. Even the Chief Justice of Nepal had been their target in February 2001. Because of the acts of violence and terrorism by Maoists, the Nepalese people living in remote parts of the country were totally denied their right to live and carry on their daily lives in peace.

29. In the course of the security measures to control Maoist activities, strict instructions had been issued to the police personnel not to take any action that could lead to violation of anyone's human rights and fundamental freedoms. The police had not resorted to any acts of torture or enforced disappearance. In some instances, however, people involved in terrorist activities had gone underground and that might account for reports of disappearances.

30. His Government had continued to seek a negotiated political solution, and had called upon the Maoists to renounce terrorist activities and come to the negotiating table. There had recently been a fresh initiative to end the problem. The Government had published a list of 302 detained for involvement in terrorist activities and had called upon the Maoists to publish the list of 131 persons abducted by them and still held.

31. With the technical cooperation of the Office of the United Nations High Commissioner for Human Rights (OHCHR), his Government had made attempts to create a law-enforcement system that was sensitive and responsive to human rights: there were training programmes for police officers, workshops on human rights and criminal procedure, and a human rights training manual for police cadets.

32. As for the case of Ms. Laxmi Mudbari, mentioned in paragraph 313 of the Special Rapporteur's summary of cases transmitted to Governments (E/CN.4/2001/9/Add.1), his delegation wished to state that, since 26 July 2000, she had been held in Bharatpur prison, where she was receiving visits from relatives. OHCHR had been informed of the situation on 30 August 2000.

33. Mr. RONNAS (Observer for Sweden), speaking on behalf of the European Union and the associated countries of Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, welcomed the fact that a growing number of States had become parties to the International Covenant on Civil and Political Rights and encouraged those that had not yet done so to accede, so that the ultimate goal of universal accession could be achieved. Accession, however, was not enough. Existing standards on protecting the civil and political rights of all without distinction of any kind must be implemented.

34. All over the world, men and women were being killed, sometimes by agents of the State or with their acquiescence, because they belonged to a certain ethnic or religious group, because of their sexual orientation or in the name of honour. The perpetrators must be brought to justice. Such killings should be neither condoned nor sanctioned by the State. The Union welcomed the fact that the Special Rapporteur on extrajudicial, summary or arbitrary executions had visited Nepal in 2000 and Turkey in 2001 and was likely to visit Colombia, Honduras and the Federal Republic of Yugoslavia in the near future. It regretted that the Governments of Algeria, Bahrain, Côte d'Ivoire, India, Israel, Pakistan, the Russian Federation, Sierra Leone and Uganda had failed to respond to the Special Rapporteur's requests to be allowed to visit their countries.

35. The right to be protected from torture was enshrined in a number of international instruments and no exceptions to that right were permitted under international law. The reality was, however, grim. The Union called on all Governments that had not yet done so, to consider acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other relevant instruments. It further called on the States parties to the Convention and to the International Covenant on Civil and Political Rights to consider, where they had not done so, recognizing the competence of the Committee against Torture and the Human Rights Committee to consider communications under those instruments.

36. The Union welcomed the fact that Botswana, Gabon, Ghana and Lebanon had acceded to the Convention against Torture since the Commission's previous session and that Comoros, Guinea-Bissau and Sao Tome and Principe had signed the Convention. It was to be hoped that ratification would follow shortly.

37. The Union welcomed the campaign against torture carried out by NGOs and called on all Governments to join in the effort to put an end to that abhorrent affront to human dignity. It also called on the working group on the draft optional protocol to the Convention to reach agreement on a text that would provide for an independent and efficient international monitoring mechanism. The Union looked forward to endorsing the principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment, elaborated by the Special Rapporteur on torture and annexed to Commission resolution 2000/43.

38. It also welcomed the work done by the Committee against Torture and the visits by the Special Rapporteur to Azerbaijan and Brazil, as well as the positive reaction by the Government of Uzbekistan to the Special Rapporteur's joint request with the Chairman-Rapporteur of the Working Group on Arbitrary Detention to be allowed to pay a visit. The Union noted the Special Rapporteur's discussions with the Governments of China and the Russian Federation

about possible visits and looked forward to positive responses from the Governments concerned. It noted with regret that the Governments of Algeria, Bahrain, Egypt, India, Indonesia and Tunisia had still not responded to requests by the Special Rapporteur for an invitation to visit.

39. It called on all States to contribute to the United Nations Voluntary Fund for Victims of Torture and commended the Board of Trustees on its work.

40. The frequent use of arbitrary arrest or detention continued in many countries and the Union called on all Governments to ensure that their domestic laws were in conformity with the relevant international standards. Persons deprived of their liberty must be offered sufficient protection against ill-treatment in custody and summary legal proceedings; violators of such rights should be brought to justice. States should also take steps to outlaw all acts of enforced disappearance, to investigate any allegation of such a disappearance and to bring the perpetrators to justice.

41. The Union was concerned about the inadequacy of secretarial support mentioned in the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/2001/68, para. 126), particularly in view of the backlog of work on case files and the importance of ensuring that the Working Group's urgent action procedure was efficiently processed. The Union called on OHCHR to make the necessary arrangements to provide proper secretarial support for that Working Group, the Working Group on Arbitrary Detention and all thematic rapporteurs and working groups, whose good work was otherwise at risk.

42. An independent and efficient judicial system was the best safeguard against the emergence of impunity. The independence of the judiciary should therefore be safeguarded, the principle of equality before the law should be respected and measures to observe those standards in domestic legal systems should be implemented. The Union was pleased that the Special Rapporteur on the independence of judges and lawyers had been able to visit Belarus, Slovakia and South Africa and that invitations had been extended to him by the Governments of Mexico, Saudi Arabia and Zimbabwe.

43. The Union noted with great concern the large number of States in which freedom of expression was ruthlessly suppressed. In particular, women in many countries were denied that right. The Governments concerned should remove any restrictions and obstacles, whether formal or cultural, to women's enjoyment of their inherent freedom of expression. The Union noted that the Special Rapporteur on freedom of expression had undertaken a mission to Albania and it welcomed the invitations received from the Governments of Argentina, Egypt and Peru. It was regrettable that requests for permission to visit Angola, China, Colombia, Cuba, the Democratic People's Republic of Korea, Equatorial Guinea, India, Indonesia, Pakistan, the Russian Federation, Sri Lanka and Viet Nam had not yet met with positive replies.

44. The Union supported the continuing efforts of the Special Rapporteur on freedom of religion or belief to examine incidents in all countries that were incompatible with the relevant international standards, in particular the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

45. In several of the reports by special rapporteurs and working groups, the fight against impunity was mentioned as being of crucial importance. It was dismaying that, in a number of countries, impunity continued to be the norm and thus the breeding ground for continued human rights violations. All Governments should cooperate with the human rights mechanisms and allow visits to their countries by those mechanisms, as the countries of the Union did. Such cooperation would contribute to the full achievement of the elimination of all human rights violations everywhere.

46. Mr. NDIAYE (Senegal) said that his Government had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1986, even before its entry into force. The country's new Constitution, adopted in a referendum in January 2001, stated that the human person was sacred and inviolable and that the State had an obligation to respect and protect every individual. The criminal law contained severe penalties for those perpetrating torture, whether they were from the private or the public sector. Any public official who detained or caused to be detained an individual in a place not intended for such detention was punished by the loss of his civil rights. The reason for such severity was that it was in precisely such secret places that torture occurred. The law sought to keep conditions of arrest and detention within the limits compatible with the guarantee of individual freedoms, since the person arrested must benefit from the presumption of innocence.

47. In practice, the police custody procedure was under the control of the Government Procurator. The record of the statement and the compulsory police custody register must mention the reasons for the arrest, the day and hour that it commenced, the duration of questioning and the rest time. Any action taken by the judicial police during the detention must also be expressly mentioned in the record of the statement, which was initialled by the person in custody, otherwise the proceedings would be null and void.

48. The most remarkable innovation in his country's criminal procedure, however, was the presence of a lawyer during police custody and the possibility given not only to the Government Procurator's Office but also to the detainee and his lawyer, or indeed to any person whatsoever, to request at any time that the detainee be given a medical examination, a request that could not be refused. It was a measure that significantly improved the rights of the defence during a sensitive stage of the proceedings. Those provisions went beyond what was required by the Convention.

49. Senegal's commitment to human rights and its measures to consolidate the rule of law had been recognized by the Committee against Torture which had commended Senegal's ratification of a number of international human rights treaties and the modernization of its legislation. It had also commended the publication of a joint communiqué by representatives of both the Government and NGOs announcing the introduction of a regular dialogue and the establishment of a human rights office.

50. His Government had also introduced human rights training programmes for the police, the armed forces and the medical corps. Lastly, it had made the declaration provided for under articles 21 and 22 of the Convention, recognizing the competence of the Committee against Torture to receive and consider communications.

51. Ms. FILIP (Romania) said that the Commission should do its utmost to consolidate democratization by taking stock of the lessons learned and reflecting on the transition processes occurring throughout the world. True democracy represented a profound synthesis of all the categories of human rights for which the international community was striving. Indeed, increasing numbers of nations had asserted their freedom and recognized democracy as the form of governance which best met their aspirations.

52. In an era of globalization and interdependence, people must be able to adapt quickly to new realities. Human development thus implied a comprehensive education ranging from technological training to a new self-awareness which appreciated human dignity and uniqueness. A qualitative shift in the involvement of major actors was also required, as was a continuous reassessment of the role and responsibilities of civil society.

53. Since democratization was not irreversible, it must be constantly reinvented and protected. To that end, there must be action-oriented debate at the international level to identify new means of strengthening the power of democracy. The Commission and other United Nations bodies should act as honest brokers to that end.

54. Mr. BERGH JOHANSEN (Norway) said that no democratic State could be sustained without the rule of law, which was indispensable for the protection of human rights and good governance. The rule of law necessitated proper distribution of power between an accountable executive, the legislative and the judiciary. An independent judiciary must uphold the integrity and reinforce the effectiveness of other democratic institutions, and prevent abuse of power on the part of the State. Once established, the International Criminal Court would serve as a further deterrence against the most heinous international crimes. His delegation thus strongly urged all States to ratify the Rome Statute.

55. States should fully implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, inter alia by enacting effective legislation on the prosecution and punishment of infractions. They should also intensify their efforts to prepare an optional protocol to the Convention, with a view to establishing a strong international mechanism which would not be merely complementary to national machinery.

56. Full cooperation with all international human rights mechanisms was essential. His own country had taken measures to improve its practice in response to criticisms made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the United Nations Committee against Torture, notably with regard to the use of remand in custody for relatively long periods and of bans on correspondence and visitors.

57. Freedom of expression was fundamental to any society built upon the principles of human rights. Moreover, an enlightened, active and critical public debate was a cornerstone of democracy. The information provided by NGOs on cases in which freedom of expression and free media in a number of States was threatened was of immense value both to the individuals affected and to Governments.

58. Mr. DUQUE ESTRADA MEYER (Brazil) said that his delegation wished to endorsee the statements made by the representatives of Mexico and Paraguay. Democratic regimes should be strengthened to counter the worrying rise of political parties promulgating racist and xenophobic ideas. Democracy and human rights were totally incompatible with racism and the Commission had an important role to play in the preparations for the forthcoming World Conference by unequivocally reaffirming that principle. Democracy depended on constant self-criticism: no problems were ever solved once and for all, nor were there any problems that had no solution.

59. Torture had become a chronic problem in Brazil and his Government had decided to launch a national media campaign involving the creation of a telephone hotline and the promotion of public debate to identify means of combating the practice. The visit of the relevant Special Rapporteur to Brazil would provide an excellent basis for further dialogue.

60. United Nations activities to combat torture should be strengthened, and international assistance provided to Governments committed to addressing the problem. It was to be hoped that the elaboration of a draft optional protocol to the Convention would yield positive results.

61. Mr. SCHWARZ (United States of America) said that the United States had not invented human rights, indeed, it might be said that human rights had invented the United States. The protection of such rights was the very purpose of government, and the just powers of government must depend on the consent of the governed. Such, indeed, was the essence of democracy. In the words of President Bush, people should be able to say what they thought, worship as they pleased and elect those who governed them.

62. In the absence of freedom of expression, no other universally recognized right could flourish. Tolerance for the opinions of others was the price to be paid for a free society. Room must be made for dissent, whether voiced on the Internet, in the press, or in the public square. Opinions, no matter how offensive, must be heard and debated in the "marketplace of ideas" - a central premise of his country's Constitution and of the Universal Declaration of Human Rights.

63. Fundamental rights did not, however, exist merely because they were enshrined in legal instruments. They were an inherent part of humanity. Everyone knew that to massacre, torture and enslave were fundamentally wrong. A child might not know the meaning of the word "genocide" but a child did know that it was wrong to take life indiscriminately.

64. It was important that terms such as "genocide", "racism" and "apartheid" not be misused. Every goal must not be called a "right", or every wrong a "crime against humanity". Some nations used the language of human rights to deny individual freedom rather than to protect it. They perverted the language of the rule of law by insisting that they did not have political dissenters rotting in their prisons, merely people who "violated the law" or constituted "political harm to society".

65. Raising the cases of individuals around the world who had been persecuted for exercising their human rights, he said that, in China, Huang Qi had been put on trial for exchanging e-mail critical of the Chinese Government. In Cuba, José Orlando González Bridon - a journalist and labour activist - had been charged with disseminating "enemy propaganda" for publicly

criticizing the police. In Viet Nam, Father Tadeus Nguyen Van Ly was under house arrest for submitting written testimony to the United States Commission on International Religious Freedom.

66. Democracies flourished where religious freedom was protected, but the converse was also true. Governments that engaged in religious persecution imposed a single, approved ideology on all their citizens. In China, for example, persons who practised Buddhism, Christianity or Islam outside officially sanctioned organizations - or who engaged in certain spiritual pursuits - were subject to arrest. Some were beaten, tortured, or imprisoned in "re-education through labour" camps. Falun Gong practitioners had been placed in police-run psychiatric hospitals.

67. In the Sudan, the Government forcibly imposed its own interpretation of Islamic law on its diverse population, thus contributing to a civil war responsible for 2 million deaths and 4 million internally displaced persons. In Viet Nam, the authorities had intensified their attempts to repress dissident Buddhists and leaders of independent Protestant churches, and had prevented Protestants and Catholics from forming an autonomous association. In Laos, the religious freedom of the country's Protestant minority was not safeguarded. The Iraqi regime, had murdered clerics, desecrated mosques and holy sites and imprisoned, persecuted and killed tens of thousands of Shiites and members of other religious groups. Genuine religious freedom did not exist in North Korea either. Freedom of worship was feared by tyrannical Governments because it threatened the monopoly of loyalty and thought with which they sought to maintain control over individuals.

68. Thanks to the Internet and satellite television, the question was no longer whether the world was able to hear of cases of human rights violations, but whether it was listening. The sad fact of the twentieth century was not that the international community had been unaware of the Holocaust, or Pol Pot, or the massacres in Rwanda, but that it had done too little - or waited too long - to stop those tragedies. The question before the Commission was not whether human rights violations existed, but whether it had the will to believe that such wrongs were occurring and the will to take action.

69. Mr. HUSSAIN (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), introducing his report and its addendum on his mission to Albania (E/CN.4/2001/64 and Add.1), said that freedom of opinion and expression was fundamental to all other rights and its protection required particular vigilance. Without it, a man lost the very quality which made it possible for others to treat him as an equal fellow being. Furthermore, it was the right that was invoked to defend personal freedoms, autonomy and identity. Silences must be heard if clashes of civilization were to be averted; voices must be raised if men were to master their destinies.

70. During the year under review, he had received a disturbingly large volume of complaints concerning journalists, writers, political actors and other individuals who had been deprived of their right to freedom of opinion and expression. A significant number of complaints could not be acted upon due to lack of time and resources. It was clear, however, that too many persons in the world continued to suffer intimidation, harassment, arbitrary detention and physical harm for exercising a basic right.

71. The report enumerated the visits he hoped to undertake in the coming year and provided details on his activities, his communications with Governments and cooperation with human rights mechanisms and other intergovernmental organizations. Welcoming the dialogue he had undertaken with certain Governments and NGOs, he drew particular attention to recent positive discussions with representatives of the Islamic Republic of Iran. His visit to Peru was scheduled for November 2001.

72. Since the free flow of information and ideas was one of the most effective ways of eradicating prejudices, the exercise of the right to freedom of opinion and expression - particularly by the media - would contribute greatly to strengthening the forces pitted against racism and intolerance in general. The fact that the right had sometimes been abused for the purposes of advocating national, racial or religious hatred should not be allowed to overshadow its positive potential since, in its absence, human freedom was impoverished and human development impaired.

73. Mr. KRISAFI (Observer for Albania) said that respect for human rights was a priority for his Government and the individual cases cited in the addendum to the Special Rapporteur's report (E/CN.4/2001/64/Add.1) were not at all representative of the general spirit of Albanian society. That being said, his Government fully realized that much had still to be done.

74. His Government had presented its official response (E/CN.4/2001/138) to the report in which it pointed out that the Penal Code and the Civil and Penal Procedures Code had been amended and a number of laws concerning the State police and the press had been passed thereby greatly improving the situation. The Government had expressed deep regret regarding past cases of mistreatment of journalists but, as noted in the report, no journalist was currently in prison or under arrest.

75. Whatever defects there might be, there were no disturbing problems relating to the position of women, nor any policies and practices that discriminated against women, as alleged by the Special Rapporteur. In short, while his Government considered the recommendations in the report to be on the whole in line with its own efforts to promote respect for human rights, it felt that some of them had nothing to do with the contemporary situation in Albania.

76. Lastly, his Government had responded in detail in a note verbale dated 22 December 2000 to all the allegations made by the Special Rapporteur on torture in his report (E/CN.4/2001/66). He requested that the response be incorporated into the report.

77. Mr. TOSEVSKI (Member of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture) said that the Commission had before it the report of the Secretary-General on the status of the Fund (A/55/178) and updated information on the subject (E/CN.4/2001/59 and Corr.1).

78. Some US$ 11 million would be needed to finance assistance to victims of torture and members of their families. Only about US$ 1 million had been received to date. So far, pledges totalling US$ 2 million had been made by Algeria, Brazil, Chile, Cyprus, Denmark, Italy, Monaco, the Netherlands, Tunisia, Turkey and the United Kingdom. He had been informed that

a pledge of US$ 5 million had just been received from the United States, bringing the total pledges up to US$ 7 million. To be considered by the Board of Trustees at its next session pledges must be actually paid up before 30 April 2001.

79. He appealed to Governments, NGOs and the general public to make use of the United Nations International Day in Support of the Victims of Torture to participate in humanitarian assistance to the victims of torture worldwide.

80. Ms. CASTAÑON (Office of the High Commissioner for Human Rights), speaking on behalf of the Chairperson-Rapporteur of the working group on a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, introduced the report of the working group (E/CN.4/2001/67) and drew attention to the annexes thereto which contained an alternative preliminary draft optional protocol submitted by Mexico with the support of the group of Latin American countries (GRULAC) and a proposal of new and revised articles to be included in the original draft protocol submitted by Sweden on behalf of the European Union.

Statements made in exercise of the right of reply

81. Ms. RUIZ DE ANGULO (Costa Rica) said that she had been astounded to see Costa Rica listed among the countries from which reports had been received of extrajudicial killings of street children (E/CN.4/2001/9, para. 67). It was shocking that such an egregious error should have found its way into a document that had been distributed worldwide. Costa Rica was committed to human rights. It had not had a civil war or an army for more than 50 years and had no extrajudicial killings; it did not even have the death penalty. She had requested that the document should be withdrawn and reissued and had been told that a correction would be issued forthwith.

82. Mr. CHOE Myong Nam (Observer for the Democratic People's Republic of Korea) said that his delegation categorically rejected the unsubstantiated allegations made by the representative of the United States of America. As he had already noted, the United States was fond of pointing a finger at others while ignoring the notorious human rights violations being committed daily within its own borders. The United States had destroyed places of worship in his own country during the Korean war, thereby violating the religious freedom of the Korean people. The real violator of such freedom in the Democratic People's Republic of Korea was therefore the United States.

83. Mr. AL-NIMA (Observer for Iraq) said that he found it odd that the representative of the United States of America should arrogate to himself the role of defender of human rights when his Government was itself guilty of human rights violations and crimes against humanity, inter alia, in Viet Nam and in Iraq where it had used weapons containing depleted uranium. The Shiites - whom he allegedly wished to protect - were exposed, as was the entire Iraqi population, to daily bombings by United States forces.

84. Considering that the United States had used its veto in the Security Council to prevent the sending of an expert mission to the Palestinian territories to investigate the Israeli practices against unarmed Palestinian civilians, including children, and the destruction of their property, he should be the last to speak of human rights.

85. Mr. AL-KHALIFA (Observer for Bahrain), referring to the statement by the representative of Sweden that Bahrain and some other countries had not responded to requests from the Special Rapporteur on extrajudicial, summary or arbitrary executions for invitations to visit their countries, said that Bahrain's many achievements, including in the area of human rights, were a matter of great pride. He referred the spokesman for the European Union to the statements made by his delegation under agenda item 9.

86. Mr. BOICHENKO (Russian Federation) said that he was bewildered by the way the facts were presented in the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2001/9/Add.1). It would seem, from the part of the report dealing with the Russian Federation, that the Special Rapporteur had used sources which gave a distorted and unrealistic picture of the situation. There was no mention of the fact that his Government had replied to all the questions put by the Special Rapporteur after State bodies had conducted their proper verification. The report said not a word about barbarian Chechen fighters whose activities were directed at the civilian population. He had been even more surprised by the Special Rapporteur's oral introduction. It was almost as though the Special Rapporteur had not followed the events in the Chechen Republic of the Russian Federation.

87. Mr. NETO (Observer for Angola), referring to the regret expressed by the observer for Sweden speaking on behalf of the European Union, that requests for visits to Angola and other countries had not received a positive reply, said that the observer in question should read the various reports from the special rapporteurs and the statement made by the Special Rapporteur on freedom of expression and then withdraw his gratuitous allegations. It was not proper to make allegations when there was no documentary or other proof. His Government was cooperating with the Special Rapporteur and was looking into the allegations. Once the investigation was completed, his Government would write to the Special Rapporteur informing him when he could visit the country.

The meeting rose at 6.10 p.m.